

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ILLINOIS
 EASTERN DIVISION

| | | |
|--------------------------------------|---|--------------------|
| TRUSTEES of the CHICAGO REGIONAL |) | |
| COUNCIL OF CARPENTERS PENSION FUND, |) | |
| CHICAGO REGIONAL COUNCIL OF |) | |
| CARPENTERS WELFARE FUND, and CHICAGO |) | |
| REGIONAL COUNCIL OF CARPENTERS |) | CASE NO. 08-C-1842 |
| APPRENTICE & TRAINEE PROGRAM FUND |) | |
| |) | JUDGE ANDERSEN |
| Plaintiffs, |) | |
| |) | |
| v. |) | |
| |) | |
| ROBINETTE ENTERPRISES, INC. |) | |
| |) | |
| Defendant. |) | |

MOTION FOR DEFAULT JUDGMENT

Plaintiffs, by their attorney, David P. Lichtman, and pursuant to Rule 55 of the Federal Rules of Civil Procedure, move this Honorable Court to enter Judgment by Default for Defendant's failure to appear, answer or otherwise plead. Further, in support of this Motion the Plaintiffs state:

1. Plaintiffs filed their complaint on March 27, 2008 and the summons and complaint was served on registered agent, Mohammed A. Nofal, on April 7, 2008 by the Process Server. **(Exhibit A, Affidavit of Service)**

2. The Defendant has failed to appear, answer or otherwise plead within the time allowed by the Federal Rules of Civil Procedure.

3. At all times relevant to this action, the Defendant has been bound by the provisions of a Collective Bargaining Agreement and the Trust Agreements which created the Trust Funds. Pursuant to the provisions of the Trust Agreements and the Collective Bargaining Agreement, the Defendant is required to submit monthly reports to the Trust Funds which list the number of hours worked by the Defendant's employees and to pay the ERISA contributions based on those hours.

4. The Defendant submitted the monthly contribution reports but failed to submit the ERISA contributions shown to be owed in the amount of \$18,160.52 for the months of

September 2007 through November 2007. The Defendant also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$1,356.25. (**Exhibit B Affidavit of James Rosemeyer**)

5. The Defendant owes interest on the unpaid ERISA contributions in the amount of \$570.27 pursuant to the Trust Agreements and 29 U.S.C. §1132(g)(2)(B). (**Exhibit B Affidavit of James Rosemeyer**)

6. The Defendant owes liquidated damages on the unpaid ERISA contributions in the amount of \$ 1,775.10 for the period September 2007 through November 2007 pursuant to the Collective Bargaining Agreements, the Trust Agreements and 29 U.S.C. §1132(g)(2)(C)(iii). (**Exhibit B Affidavit of James Rosemeyer**)

7. The Defendant owes the sum of \$1,382.50 for necessary and reasonable attorney fees and costs of \$405.00 which are collectible under the terms of the Collective Bargaining Agreement, the Trust Agreements and 29 U.S.C. §1132(g)(2)(D). (**Exhibit C Affidavit of David P. Lichtman**)

WHEREFORE, Plaintiffs pray that their motion for judgment by default be granted in the amount of \$23,649.64.

Respectively submitted,

/s/ David P. Lichtman

Attorney for Plaintiffs

Whitfield McGann & Ketterman
111 E. Wacker Drive
Suite 2600
Chicago, IL 60601
(312) 251-9700, Fax (312) 251-9701
dlichtman@whitfield-mcgann.com
Attorney No. 6290051

EXHIBIT LIST

EXHIBIT A

Affidavit of Service, Special Process Server

EXHIBIT B

Sworn Declaration Pursuant to 28 U.S.C.A. § 1746

James Rosemeyer, Contributions Manager

EXHIBIT C

Sworn Declaration Pursuant To 28 U.S.C.A. § 1746

David P. Lichtman, Plaintiffs Attorney

Exhibit A

Exhibit A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

SUMMONS IN A CIVIL CASE

TRUSTEES OF THE CHICAGO REGIONAL
 COUNCIL OF CARPENTERS PENSION
 FUND, et al.

CASE NUMBER:

08 C 1842

V.

ASSIGNED JUDGE:

ROBINETTE ENTERPRISES, INC.

DESIGNATED
 MAGISTRATE JUDGE:

**JUDGE ANDERSEN
 MAGISTRATE JUDGE KEYS**

TO: (Name and address of Defendant)

ROBINETTE ENTERPRISES, INC.
 C/O MOHAMMED A. NOFAL
 REGISTERED AGENT
 18 W. CASS STREET
 SUITE 500
 JOLIET, IL 60432

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

DANIEL P. McANALLY
 Whittfield McGann & Ketterman
 111 E. Wacker Drive, Suite 2600
 Chicago, IL 60601

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

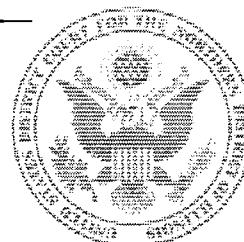
Michael W. Dobbins, Clerk

Michael W. Dobbins

 (By) DEPUTY CLERK

March 31, 2008

 Date



ClientCaseID: N7637
Law Firm ID: WHITFIEL



CaseReturnDate: 5/1/08

Affidavit of Special Process Server

UNITED STATES DISTRICT COURT

Case Number 08C1842

I, MICHAEL P. FEEHAN

FIRST DULY SWORN ON OATH STATES THAT I AM OVER 18 YEARS OF AGE AND NOT A PARTY TO THIS SUIT AND IS A REGISTERED EMPLOYEE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION PRIVATE DETECTIVE AGENCY #117-001292 STERN PROCESS & INVESTIGATION LLC 205 W. RANDOLPH ST. #1210 CHICAGO IL 60606

CORPORATE SERVICE

THAT I SERVED THE WITHIN **SUMMONS AND COMPLAINT**
ON THE WITHIN NAMED DEFENDANT Robinette Enterprises, Inc.
PERSON SERVED MOHAMMED NOFAL (REGISTERED)
BY LEAVING A COPY OF EACH WITH THE SAID DEFENDANT ON 4/7/08

That the sex, race and approximate age of the person whom I left the **SUMMONS AND COMPLAINT**
are as follow: Sex MALE Race ARABIC Age 31

Height 6'0" Build THIN Hair BLACK

LOCATION OF SERVICE **18 W. Cass St. Suite 500**
Joliet, IL, 60432

Date Of Service 4/7/08

Time of Service 11:45 AM


MICHAEL P. FEEHAN

4/7/2008

Special Process Server
P.E.R.C. #129-157466

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statement are true and correct, except as to matters therein stated to be on information and belief and such matters the undersigned certifies as aforesaid that he/she verily believes same to be true.



Exhibit B

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL)
COUNCIL OF CARPENTERS PENSION FUND,)
CHICAGO REGIONAL COUNCIL OF)
CARPENTERS WELFARE FUND, and CHICAGO)
REGIONAL COUNCIL OF CARPENTERS) CASE NO. 08-C-1842
APPRENTICE & TRAINEE PROGRAM FUND)
Plaintiffs,) JUDGE ANDERSEN
)
v.)
ROBINETTE ENTERPRISES, INC.)
Defendant.)

DECLARATION OF JAMES ROSEMEYER

Pursuant to 28 U.S.C. § 1746, I, James Rosemeyer, do declare under penalty of perjury that the following is true and correct:

1. I am the Manager of the Employer Contributions Department for the Chicago Regional Council of Carpenters Pension Fund and the Chicago Regional Council of Carpenters Welfare Fund (collectively, the "Trust Funds"), and in such capacity I am authorized to make this Declaration on behalf of the Trust Funds.
2. The Defendant executed an Agreement with the Chicago Regional Council of Carpenters ("Union") whereby it agreed to be bound by the provisions of a Collective Bargaining Agreement and to all Collective Bargaining Agreements subsequently negotiated.
3. Pursuant to the provisions of the Agreement and the Collective Bargaining Agreements, the Defendant agreed to be bound by the provisions of the Agreements and Declarations of Trust, which created the Plaintiffs' Trust Funds.

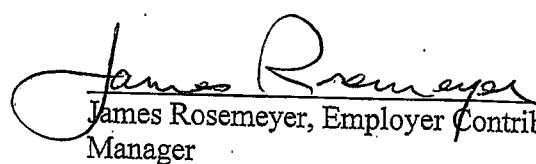
4. Pursuant to the provisions of the Collective Bargaining Agreements and Trust Agreements, the Defendant is required to submit monthly reports, which list the number of hours worked by its carpenter employees, and the Defendant is required to pay contributions based upon the hours listed.

5. The Defendant submitted the monthly contribution reports but failed to submit the ERISA contributions shown to be owed in the amount of \$18,160.52 for the months of September 2007 through November 2007. The Defendant also failed to remit the union dues it withheld from the employees' wages. The amount of dues withheld is \$1,356.25.

6. Because of its failure to pay contributions in a timely manner, the Trust Agreement and Collective Bargaining Agreement mandate the assessment of liquidated damages. The liquidated damages calculation was based on the rate set forth in the controlling Trust Agreements, which is 1.5% compounded per month. The amount of liquidated damages owed is \$1,775.10 for the period September 2007 through November 2007.

7. The interest calculation is based on the ERISA Section awarding such interest, 29 U.S.C. § 1132(g)(2) and because the relevant Trust Agreements do not specify the rate of interest, the calculations were done pursuant to Section 6621 of the Internal Revenue Code. The amount of interest owed is \$570.27 for the period of September 2007 through November 2007.

Dated this 28th Day of April, 2008.



James Rosemeyer
James Rosemeyer, Employer Contributions
Manager

4/21/2008

Robinette Enterprises, Inc.
705 Miami Street
Joliet, IL 60432

Account #24505

| <u>Contributions</u> | <u>Liquidated Damages</u> | <u>Interest</u> | <u>Dues</u> |
|--------------------------|---------------------------|-----------------|-----------------|
| Sep-07 \$8,447.04 | \$927.86 | \$308.56 | \$684.89 |
| Oct-07 \$5,974.62 | \$558.29 | \$176.44 | \$363.85 |
| Nov-07 <u>\$3,738.86</u> | <u>\$288.95</u> | <u>\$85.27</u> | <u>\$307.51</u> |
| totals: \$18,160.52 | \$1,775.10 | \$570.27 | \$1,356.25 |

Exhibit C

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRUSTEES of the CHICAGO REGIONAL)
COUNCIL OF CARPENTERS PENSION FUND,)
CHICAGO REGIONAL COUNCIL OF)
CARPENTERS WELFARE FUND, and CHICAGO)
REGIONAL COUNCIL OF CARPENTERS) CASE NO. 08-C-1842
APPRENTICE & TRAINEE PROGRAM FUND)
Plaintiffs,) JUDGE ANDERSEN
)
v.)
)
ROBINETTE ENTERPRISES, INC.)
)
Defendant.)

DECLARATION OF DAVID P. LICHTMAN

Pursuant to 28 U.S.C. § 1746, I, David P. Lichtman, do declare under penalty of perjury that the following is true and correct:

1. I am an associate in the law firm of Whitfield McGann & Ketterman and one of the attorneys for Plaintiffs in the above captioned matter. I am licensed to practice law in the State of Illinois and for the United States District Court for the Northern District of Illinois, I make this Declaration in support of Plaintiffs' Motion for Default Judgment.

2. I have personal knowledge of the facts stated herein and am competent to give testimony as recited herein and from my own personal knowledge.

3. The Collective Bargaining Agreement and the Trust Agreements under which this action is based provide for the payment of liquidated damages, audit fees and attorneys' fees and costs incurred for failure of a signatory contractor to pay contributions in accordance with those Agreements.

4. I, David P. Lichtman, have devoted 7.9 hours in connection with the above-captioned case at the rate of \$175.00 per hour. My total billings are \$1,385.50

5. In addition, the filing fee was \$350.00 and the fees for service of process were an additional \$55.00. These costs total \$405.00.

6. I certify that the attached detailed attorney fees and costs totaling \$1,787.50 were necessary and reasonable.

7. Notice of this Motion for Default was given to Defendant by mailing a copy of the same to Mohammed A. Nofal, Registered Agent of Robinette Enterprises, Inc. at 18 W. Cass Street, Joliet, IL 60432.

Dated this 1st Day of May, 2008.

David P. Lichtman
David P. Lichtman

Attorney for the Plaintiffs
Whitfield McGann & Ketterman
111 E. Wacker Drive
Suite 2600
Chicago, IL 60601
(312) 251-9700, Fax (312) 251-9701
dlichtman@whitfield-mcgann.com
Attorney No. 6290051

4/29/2008
10:04 AMWHITFIELD, McGANN & KETTERMAN
Slip Listing

Page

1

Selection Criteria

Slip Date Earliest - 4/29/2008
 Slip Classification Open
 Case (hand select) Include: CTF-C./N7637/24505

Rate Info - identifies rate source and level

| Slip ID | | ATTORNEY | Units | Rate | Slip Value |
|--|----------|--------------------|--------------------|-------------|------------|
| Dates and Time | | Activity | DNB Time | Rate Info | |
| Posting Status | | Case | Est. Time | Bill Status | |
| Description | | Reference | Variance | | |
| 355158 | TIME | DPL | 0.25 | 175.00 | 43.75 |
| 3/27/2008 | 12:00 AM | Billable | 0.00 | T@7 | |
| Billed | G:73224 | 4/2/2008 | CTF-C./N7637/24505 | 0.00 | |
| Search for corporate information including registered agent of the corporation for purposes of service; search for related companies; perform asset search of company and principals. | | | | | |
| 355159 | TIME | CPW | 0.5 | 175.00 | 25.00 |
| 3/27/2008 | | Lexis | 0.00 | A@1 | |
| Billed | G:73224 | 4/2/2008 | CTF-C./N7637/24505 | 0.00 | |
| Search for corporate information including registered agent of the corporation for purposes of service; search for related companies; perform asset search of company and principals. | | | | | |
| 355130 | TIME | DPL | 2.00 | 175.00 | 350.00 |
| 3/27/2008 | 12:00 AM | Billable | 0.00 | T@7 | |
| Billed | G:73224 | 4/2/2008 | CTF-C./N7637/24505 | 0.00 | |
| Prepared summons, complaint, appearance forms and civil cover sheet for Trust Funds' claims and compliance matters pursuant to ERISA Sec. 1132, 1145 and T-HA Sec. 301. | | | | | |
| 355570 | TIME | DPL | 0.40 | 175.00 | 70.00 |
| 4/1/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| Review complaint filed at the Federal Court; enter pertinent information (e.g., filing date, case number and assigned judge) into database; review judge's standing order regarding pre-trial litigation, motion practice and status hearing dates; update file/database regarding same. | | | | | |
| 355572 | TIME | DPL | 1.00 | 175.00 | 175.00 |
| 4/1/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| Prepared correspondence to legal process server, Scott Forrest Stern & Associates, | | | | | |

4/29/2008
10:04 AMWHITFIELD, McGANN & KETTERMAN
Slip Listing

Page

2

| Slip ID | | ATTORNEY | Units | Rate | Slip Value |
|--|------|--------------------|-----------|-------------|------------|
| Dates and Time | | Activity | DNB Time | Rate Info | |
| Posting Status | | Case | Est. Time | Bill Status | |
| Description | | Reference | Variance | | |
| Inc., regarding service of the summons and complaint on defendant; prepared correspondence to James Rosemeyer, ERISA Contributions Mngr, Chicago District Council of Carpenters' Trust Funds, regarding the filing of the complaint; enclosed summons and complaint; docket follow-up dates for service. | | | | | |
| 356430 | TIME | DPL | 0.20 | 175.00 | 35.00 |
| 4/14/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| Review e-mail sent by the U.S. Dist. Court for the Northern Dist. of Illinois regarding the proof of filing the summons returned as executed; download documents to the file folder; print document and enclose in file. | | | | | |
| 356107 | TIME | DPL | 0.40 | 175.00 | 70.00 |
| 4/14/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| Review Scott Forrest Stern & Associates, Inc.'s report on service of the summons and complaint; review process server remarks regarding details of service; review affidavit of service for legality; electronically file the proof of service with the clerk of the U.S. District Court for the Northern Dist. of Illinois; docket follow-up dates for Answer due date. | | | | | |
| 356115 | TIME | DPL | 0.50 | 175.00 | 87.50 |
| 4/14/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| Draft correspondence to James Rosemeyer, ERISA Contributions Manager, Chicago District Council of Carpenters' Trust Funds requesting a breakdown of all ERISA fringe benefit contributions owed and the accompanying calculation of liquidated damages and interest pursuant to the terms of the trust agreements and Internal Revenue Code. | | | | | |
| 356433 | TIME | DPL | 0.25 | 175.00 | 43.75 |
| 4/21/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| Review e-mail from Earl Oliver regarding amounts owed by signatory; print and load information into file and database. | | | | | |

4/29/2008
10:04 AMWHITFIELD, McGANN & KETTERMAN
Slip Listing

Page 3

| Slip ID | | ATTORNEY | Units | Rate | Slip Value |
|----------------|---|--------------------|-----------|-------------|--------------|
| Dates and Time | | Activity | DNB Time | Rate Info | |
| Posting Status | | Case | Est. Time | Bill Status | |
| Description | | Reference | Variance | | |
| 356468 | TIME | DPL | 0.40 | 175.00 | 70.00 |
| 4/22/2008 | 12:30 PM | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| | Prepare draft of motion for default judgment | | 0.00 | | |
| 356910 | TIME | DPL | 2.50 | 175.00 | 437.50 |
| 4/28/2008 | | Billable | 0.00 | T@7 | |
| WIP | | CTF-C./N7637/24505 | 0.00 | | |
| | Review court file to determine if Answer filed; review office file for Answer; confirm answer due dates; review U.S. District Court web site to verify the date and time that the presiding Judge hears motions; prepare motion for default judgment pursuant to F. Rul. Civ. P. 55 for failure to Answer or otherwise plead. | | 0.00 | | |
| <hr/> | | | | | |
| Grand Total | | | | | |
| | | Billable | | | 1 [REDACTED] |
| | | Unbillable | | | 0.00 |
| | | Total | | | 1 [REDACTED] |
| | | | | | 1 [REDACTED] |

7.90 @ 175 # 1382.50

Filing Fee \$ 350 +

Service \$ 55 +

~~\$1,400.00~~

\$ 1,787.50

STERN PROCESS & INVESTIGATION, LLC

205 W. RANDOLPH ST 1210
CHICAGO, IL, 60606

TaxId:04-3801615

Phone:(312) 853 - 2150 Fax:(312) 853 - 3119

WHITFIELD, MCGANN & KETTERMAN
111 E WACKER DRIVE 2600
CHICAGO, IL, 60601

Phone (312)-251-9700

Fax (312)-251-9701

Plaintiff: Trustees of the Chicago Regional Council of Carpenters Pension Fund, et al. **Client Case#** N7637 **Court Case#** 08C1842
County: UNITED STATES DISTRICT COURT

Invoice# 181569 **Server Name:** MICHAEL P. FEEHAN
Defendant 1: Robinette Enterprises, Inc. **CORPORATE SERVICE** **MOHAMMED NOFAL (REGISTERED)**
Defendant 2:

Date of Service: 4/7/2008 **Service Time:** 11:45:00 AM **Invoice Date:** 4/7/2008 **Final Invoice Date:** 4/10/2008

Location of Service 18 W. Cass St. Suite 500, Joliet, IL, 60432

| Delivery Charge | Bad Address | Filing | Database Charge | Skip Trace | Rush | Investigation | Mileage | Total |
|-----------------|-------------|--------|-----------------|------------|--------|---------------|---------|---------|
| \$55.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$0.00 | \$55.00 |

Case Return Date: 5/1/2008 Payment Date: 4/22/2008 Amount Received: \$55.00 Check No: 38970

Grand Total: \$55.00
Amount Received: \$55.00
Balance Due: \$0.00